

Revised June 23, 2008

**OFFICE OF THE HEARING EXAMINER
KING COUNTY, WASHINGTON**

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**REVISED
REPORT AND DECISION**

SUBJECT: Department of Development and Environmental Services File No. **E07G0137**

JEFF KISSINGER AND MICHELLE M. BURTIS
Code Enforcement Appeal

Location: 30025 Northeast 172nd Street

Appellants: Jeff Kissinger and Michelle M. Burtis
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SUMMARY OF RECOMMENDATIONS/DECISION:

Department's Preliminary Recommendation:	Deny appeal with revised compliance schedule
Department's Final Recommendation:	Deny appeal with revised compliance schedule
Examiner's Decision:	Grant appeal; reverse violation finding 1 of Notice and Order and counterpart requirement of Stop Work Order regarding off-road motorcycle use, and revise compliance schedule as to other aspects

EXAMINER PROCEEDINGS:

Hearing opened:	April 15, 2008
Hearing closed:	April 15, 2008

Participants at the public hearing and the exhibits offered and entered are listed in the attached minutes. A verbatim recording of the hearing is available in the office of the King County Hearing Examiner.

FINDINGS, CONCLUSIONS & DECISION: Having reviewed the record in this matter, the Examiner now makes and enters the following:

FINDINGS OF FACT:

1. On January 8, 2008, the King County Department of Development and Environmental Services (DDES) issued a Stop Work Order for the subject property located at 30025 Northeast 172nd Street in the unincorporated Duvall area. The property is zoned Rural Area-10 (RA-10). The Stop Work Order required an immediate halt to certain earthwork (clearing and grading in a critical area without permits, and exceeding rural area clearing standards), and cessation of a land use consisting of a “motorized track.” The Stop Work Order noted that erosion and sedimentation control measures were allowed to be performed under a counterpart DDES correction notice.
2. On January 29, 2008, DDES issued a Notice and Order to Appellants Michelle Burtis and Jeff Kissinger that found four code violations on the subject property, consisting of:
 - A. Operation of a motorized racetrack from a residential site which is not an allowed use (citing KCC 21A.08.100.A) in the RA-10 zone.
 - B. Inadequate or no temporary or permanent erosion-sedimentation/drainage control measures in place, citing county grading regulations.
 - C. Clearing and/or grading within a critical area (aquatic areas; wetlands) without required permits and/or approvals, citing county grading and critical area regulations.
 - D. Exceeding clearing standards for individual lots in the rural [RA] zone, citing county grading regulations.

The Notice and Order required that the Appellants “cease operation of the racing of motorized vehicles from this residential site” and implement approved erosion/sedimentation and drainage control measures, both by February 8, 2008; and apply for and obtain necessary clearing/grading permits, with the applications, including a critical areas restoration plan, to be submitted by April 3, 2008.

3. “Racetrack” is a use not defined in the body of the zoning code (Chapter 21A.06 KCC), but is referenced by the code to the “racing” classification subgroup, which includes “racetrack operation,” within the “Commercial Sports” industry group in the Standard Industrial Classification (SIC)¹ tables, SIC 7948. The “racetrack” use is only permitted in the RA-10 zone by special use permit, and even then is restricted to non-motorized activity. [KCC 21A.08.100.A and B.8; also see KCC 21A.02.070] (“Motorized track” is not a classified use, and the term is not defined in the code.)

¹Administered by the U.S. Department of Labor Occupational Safety & Health Administration (OSHA), formerly by the Office of Management and Budget.

4. The Appellants filed timely appeals of the Stop Work Order and the Notice and Order, making the following claims:
 - A. The subject property is not being used as a racetrack as it is not open to general public use and there is no fee charged for its use, and use of the property by the Appellants' off-road motorcycle (aka "dirt bike" and "motocross") use was formally determined by DDES in 2001 to constitute a "trails" use, which is allowed outright under KCC 21A.08.040.A.
 - B. The operation of motocross bike usage on the property constitutes personal use limited to family and friends. (The Appellants note that uninvited strangers have approached them for permission to ride on their property and have been refused.)
 - C. The Appellants request that the Stop Work Order have the "motorized track" violation removed and the aforementioned violation finding 1 of the Notice and Order (see finding 2.A above) stricken. The Appellants also request that the county affirm that the subject property is not being used as a racetrack and that personal use of their motorized vehicles is an allowed usage of their property.
5. In their appeals, the Appellants did not contest the charges and findings of the Stop Work Order and Notice and Order regarding lack of erosion-sedimentation/drainage control measures; clearing and/or grading without permits; and exceeding clearing standards. Accordingly, only the zoning violation charge regarding the land use of the property as a "racetrack" is specifically at issue in this appeal. The Appellants do, however, request that they be permitted to conduct their motocross use pending grading permit approval, etc.
6. The property is an acreage parcel developed with the Appellants' single-family residence, which is occupied by five family members. Prior to their purchase of the property, narrow cleared trails and clearings existed within wooded portions of the property.
7. Most if not all members of the Appellants' family are motocross enthusiasts and utilize extensive portions of the property for recreational motocross riding. The Appellants have conducted significant ground improvements of the property consisting of extensive clearing and grading and earthwork to provide a desired level of motocross-supportive recreational areas.
8. The Appellants and their family regularly invite non-resident family members and friends to join them in their recreational motocross use of the property. Seasonally, ranging generally from April to September, it is fairly regular that two to four motocross riders will ride recreationally on the property during several weekdays of the week, and from four to ten persons on weekends.
9. The preponderance of the evidence shows that any and all non-resident persons utilizing the property for recreational motocross use are doing so on a private, personal-invitation only basis (and indeed that residents are using the property in a private, residential-accessory manner).
 - A. There is no persuasive evidence of impersonal club, commercial or other "racetrack" use of the property. (Some persons, including family members, may be members of motocross racing clubs, and some do engage in motocross racing offsite, but there is no evidence that persons use the subject property on an impersonal, club, commercial or formal racing use, "racetrack" basis.) Persons who do not have a prior personal association and who have not been invited are not given permission to utilize the property.

- B. There also have been social gatherings of motocross-riding recreational enthusiasts on the property on a personal invitation basis, including one motocross-theme social gathering, a weekend private party, where a facsimile “race” banner was erected, in appearance typical of a finish line banner utilized in motor vehicle racing.² Such use of a banner does not automatically equate to formal club or commercial competition being conducted on the property, or a “racetrack,” and in this instance it was only emblematic of a thematic social gathering, not uncommon in American social life, similar to a “Vegas Night” or “Oscar Night” party, a family theatre-themed party, etc. The Appellants have termed their social gatherings involving motocross recreational use of the property as “play days, not race days,” and there is no persuasive disputation of their assertion.
- C. Other evidence cited by DDES and neighboring residents as indicative of a commercial and/or club motocross use and therefore a “racetrack” use is not persuasive. The motocross bikes commonly utilized by persons on the site have racing-style markers and have modified or custom equipment (although the Appellants testify that they utilize original equipment manufacturer exhaust mufflers), but such racing regalia, paint jobs and alternative equipment are common in the sports and recreation world and are similar to bicycle and even some street passenger vehicle use. They are only indicative of sport enthusiasm, not of a specific activity. Similarly, the use of racing-style clothing or uniforms by motocross enthusiasts is not a persuasive indication of commercial or club “racetrack” use. Enthusiasts often take on the guise of sport uniforms for any number of reasons: their enthusiasm for and identification with the sport, identification with role models and heroes, and, perhaps of a more practical nature, the use of high-quality sports clothing and equipment to enhance and support skill development, the sporting experience, recreational enjoyment and greater safety.
- D. The Appellants’ operational protocols for motocross recreation on the property create some appearance to race activity and a “racetrack” in that there is a one-way circuit which is established for directional predictability and resultant safety. From time to time, the Appellants set up different motocross routes on the property, in part utilizing movable tape barriers, for course variety and sport training and development. (The motocross recreation improvements onsite are utilized for sport training by family members and friends as well as general recreation use. However, there is no evidence of any formal competition or any formal club or commercial training conducted in the motocross activity onsite.)
- E. No formal motocross or other motorcycle competition is shown to have occurred on the property, no formal “racing.” What may appear to outside observers to be “competition” in this case has the quality of informal enthusiasts’ competitiveness, that of persons who are engaged in their sport on a friendly basis, similar to informal bicycle racing by persons riding together. This level of “competition” in no way constitutes a “racetrack.” There is no regulatory bar in this case to such informal, friendly enthusiasts’ competitiveness that may appear to be “competition,” just as there is no bar to friendly competitiveness that may occur on a putting green or in a swimming pool.³

²The banner contained the title “Burkiss” – an amalgamation of the last names of the Appellants – as a mock “sporting event” name.

³The Examiner is confident that DDES would not seriously contend that friendly competitiveness on a private residential putting green would constitute a formal “golf course” use under the zoning code, for example. The situations are directly analogous.

10. The Appellants have attempted to placate neighbor complaints about the noise and scale of motocross activity on the property, including limiting some usage and coordinating timing with neighborhood equestrian activity.
11. The following summary findings are made regarding the land use regulatory compliance of the subject motocross use on the property:
 - A. The frequency and extent of the use, including the number of persons engaged, are not limited by county land use regulations when it is conducted as it is on the property by the Appellants, as a residential accessory and/or “trails” use. The use may not be popular in the neighborhood, and though it is perhaps not as benign as a typical residential swimming pool, sport court, tennis court, golf green, home gym, volleyball court, pedestrian trail, etc., it is from a land use standpoint similar to such residential accessory uses.
 - B. There is also no restriction of residential accessory and “trails” usage to immediate family and/or close-by neighbors. The regularity of legitimate guest usage is also not limited by county land use regulations. Similarly, utilization by guests when residents are not present is also not prohibited or restricted by county land use regulations. Such permissive use is identical to families allowing friends or non-resident relatives to use a residential swimming pool and other types of recreation facilities while resident family members are not present.
 - C. The extent and nature of the grading and clearing conducted on the property, which is not contested by the Applicant with respect to permit requirements and other regulations, are not determinative of “racetrack” status. The scale of private, personal recreation use accessory to a residence, and of “trails” use, is not governed from a direct county land use regulatory standpoint. (See conclusion no. 5.D below in this regard.) The area in question is being maintained as a residential accessory, “trails” use and does not equate to a racetrack merely by its areal extent or the intensive nature of groundwork and improvements. The *actual use* is determinative, regardless what may appear to be similarities of design or intensity.
 - D. There is no showing that Appellants’ recreational motocross use is not “subordinate and incidental” to their residential use, and therefore disqualified from residential accessory use status. [KCC 21A.06.020.A]
 - E. DDES in its testimony asserted a Washington State Department of Natural Resources (DNR) “trail” standard, which it asserts limits “trails” to a dimensional width of 2-3 feet,⁴ as a regulatory limitation on the “trails” operation on the property. Other than such assertion, no intensity or usage restrictions on the defined “trails” use in the RA-10 zone by regulation are presented by DDES, and none are apparent in the zoning code. [KCC 21A.06.1285; KCC 21A.08.040.A]
 - F. The use is not club, commercial, or formal competition racing/training in nature. It is not a “racetrack.” To be considered and regulated as a “racetrack” under the county zoning code, the use would have to be conducted on a commercial basis, given the referenced SIC classification of the use in the code. [KCC 21A.08.100.A]

⁴No documentary evidence has been provided, nor any regulatory citation.

- G. The use is personal, private, recreational and non-club or commercial, and is therefore accessory to the residential use of the property. It is also constitutes a “trails” use as defined by the zoning code. [KCC 21A.06.1285]⁵
12. DDES has addressed off-road motorcycle usage in several formal administrative interpretations:
- A. In 2001, DDES formally concluded that a dirt track used for riding all-terrain vehicles by a property owner’s children and their friends did not constitute a “racetrack,” but instead constituted a “trails” use under KCC 21A.06.1285.
- B. In 2004, under Final Code Interpretation L04CI004, DDES concluded that
- A motorcycle racing track that is not open to the general public is not a racetrack for purposes of K.C.C. 21A.08.100. However, if the racing track is used on a regular basis by friends and associates of the property owner and has a significant level of activity, the racing track will be subject to the same land use regulations as if it were a racetrack under SIC 7948.
- ...
- One circumstance where a track used for motorcycle racing might be allowed in the Agriculture Zone would be as an accessory use to a residential use. However, the activity as described in this case (a case different than the one at hand) exceeds the intensity and duration than would normally be allowed for an accessory use.
- C. In January 2008, DDES formally concluded that
- Motorcycle racetracks, or any other type of motorized racing, is (sic) not a permitted use in the RA zone. K.C.C. 21A.08.100. Code interpretation L04CI004 sets forth factors that are relevant in evaluating whether a track used for motorcycle riding is a motorcycle racing track. These factors include the number of users, whether they include others beyond members of the property owner’s family, the frequency of use, and the public or private nature of the use....
13. DDES argues that because, as it contends, “the appellants have invited a significant number of people to race their motorcycles on the property...[t]his is a level of activity beyond the type addressed by the [2001 interpretation noted above]. The county has sufficient information by eye witnesses that the use would qualify as motorcycle racing.... The motorcycle activity on the property is similar to the type of use addressed in [code interpretation] L04CI004 (noted above).... The county has sufficient information that the use would qualify as motorcycle racing and would not be a permitted use in the RA zone.”

⁵Though most accessory uses are not individually regulated by the zoning code, those that are specifically classified are individually regulated. The “trails” use is one accessory use that is individually regulated, at least by definition and zone classification. [KCC 21A.06.020.B]

CONCLUSIONS:

1. The Examiner concurs with DDES's 2001 determination that private motorized recreational vehicle use in RA zones by property residents and friends constitutes a defined "trails" use under the zoning code, and with the first holding in the 2004 Final Code Interpretation L04CI004 that "[a] motorcycle racing track that is not open to the general public is not a racetrack for purposes of K.C.C. 21A.08.100."
2. Two other DDES holdings in L04CI004 pertinent to the instant appeal are clearly erroneous under the law, however, and cannot be accorded deference by the Examiner (also see conclusion no. 7 below):⁶
 - A. Aside from rather confusingly using the term "racing track" as distinguishable from the "racetrack" land use classification [KCC 21A.08.100.A], the holding that "if the racing track is used on a regular basis by friends and associates of the property owner and has a significant level of activity, the racing track will be subject to the same land use regulations as if it were a racetrack under SIC 7948" has no support in the law and is tantamount to an arbitrary administrative fiat usurping legislative authority. DDES has no lawful authority to in effect transfer land use regulations which apply to one land use category to another land use, simply on an "as if it were" basis. The "as if" basis on its face exposes the legal defectiveness and over-reach of such an interpretive approach.
 - B. The later holding in L04CI004 quoted above in finding no. 12.B regarding residential accessory use in the Agricultural Zone (a different zone from the subject RA-10 zone, but the situation is essentially analogous) seems on its face to attempt to impose limitations on a residential accessory use different from the "subordinate and incidental" limitation of KCC 21A.06.020. Merely implementing the "subordinate and incidental" criteria may have been DDES's intention, but by the use of the vague term "than would normally be allowed," that is not clear in the interpretation discussion or in DDES's presentation in this case. Any attempted administrative restrictions/limitations stricter than the "subordinate and incidental" criteria would be without legal authority, unless such stricter restrictions/limitations are expressly established by ordinance (which in this case is not apparent, either from the record or review of the applicable law).
3. DDES appears to have attempted, consciously or not, to engage in an incremental regulatory regime addressing non-"racetrack" motorized off-road vehicle use, outside of its regulatory authority. In part, this has been by attempting to extend "racetrack" regulation to non-"racetrack" uses. Zoning authority rests with the legislative branch. If the County desires to regulate non-"racetrack" off-road motorcycle or other vehicle use, whether as an accessory use, an outright-permitted "trails" use, or otherwise, it is presumably free to do so, as a legislative enactment, and the Examiner makes no judgment, pro or con, on such policy issues. But the law as it stands now does not regulate the subject use in the manner DDES contends in its interpretations and approach to this case. DDES has no legal authority to merely pronounce that it will apply "racetrack" regulations to a land use it expressly acknowledges (in a formal interpretation, no less) is not a "racetrack."

⁶ Deference is normally accorded to interpretations promulgated by the administrative agencies charged with responsibility over a regulatory program; however, such deference is inappropriate, and indeed unlawful, when the interpretation is clearly erroneous.

4. There is no showing that Appellants' recreational motocross use does not meet the requirement of being "subordinate and incidental" to their residential use. [KCC 21A.06.020.A] It is being lawfully conducted as a residential accessory use. To elaborate, rather than the "racetrack" (aka "motorized track") land use charged by DDES, the land use conducted onsite by the use of dirt bike motorcycles in motocross activity is, similar to maintaining a swimming pool, sport court, golf green, etc., a private, residential-accessory recreational use associated with, and subordinate and incidental to, the Appellants' residential occupancy of the property, and is therefore permitted as a residential accessory use.
5. Further, the recreational off-road vehicle use in this case also constitutes a "trails" use under the zoning code. That status was formally acknowledged by DDES in a similar case in 2001, and the over-reaching distinction now drawn by DDES is unpersuasive.
 - A. The "trails" use is permitted outright in the RA-10 zone. It is not limited solely to accessory use status, but can be conducted on a stand-alone, primary use basis since it is classified individually as a permitted ("P") use. It would appear therefore not to be subject to the "subordinate and incidental" limitations imposed on accessory uses. [KCC 21A.08.040.A]
 - B. There are no intensity or usage restrictions on the defined "trails" use in the RA-10 zone. The zoning code definition of "trails" reads "Trails: man-made pathways designed and intended for use by pedestrians, bicyclists, equestrians, *and/or recreational users.*" [KCC 21A.06.1285, emphasis added] The term "recreational users," not defined in the code, is a broad catch-all which logically can only be interpreted to include recreational off-road motorized vehicle users. No legal limitation on the types of "recreational users" of "trails" has been presented into the record, nor is any apparent in the zoning code.
 - C. Neither does the term "pathways" in the "trails" definition present any limitation. The term "pathways" is not defined in the zoning code. [Chapter 21A.06 KCC] Absent a codified definition, statutory interpretation resorts to the common and ordinary meaning. "Pathway" is defined in a common dictionary as "*n* 1: PATH, COURSE."⁷ "Path" is defined as "*n* ... 2 : a track specially constructed for a particular use 3 a : COURSE, ROUTE."⁸ "Course" is defined as "*n*... 2 : the path over which something moves."⁹ There are no limitations on use, nor any narrowness requirements or width dimensional limitations, established by these definitions.
 - D. DDES's attempted limitation of "trails" to certain narrow dimensional widths by vaguely citing state DNR trail regulations/definitions is wholly without legal merit. Without express incorporation by legal reference, which again has not been shown nor is any apparent, there is no authority to bootstrap state DNR trail regulations or definitions into the county zoning arena. Without express legal standing accorded by duly enacted law, state DNR definitions simply have no regulatory effect on county zoning matters.
6. The off-road vehicle use in this case is a lawful "trails" use under the zoning code, permitted outright in the subject RA-10 zone.

⁷ Webster's New Collegiate Dictionary 840 (1977)

⁸ *Ibid.*

⁹ *Ibid.*, at 261.

7. To the extent that DDES's January 2008 formal interpretation¹⁰ that "any other (other than "motorcycle racetracks") type of motorized racing is not permitted in the RA zone" would be construed to prohibit or restrict from a zoning perspective the off-road motorized vehicle accessory use and "trails" use on the property, it is unfounded in the law similar to the counterpart holdings in L04CI004, is clearly erroneous and is not accorded deference by the Examiner.
8. The finding of zoning violation in charge 1 of the Notice and Order ("operation of a motorized racetrack from a residential site which is not an allowed use") is erroneous and shall be reversed. Similarly, the Stop Work Order requirement that the Appellants "cease the use of the motorized track" is unfounded from a land use regulatory standpoint and also shall be reversed.
9. As noted above, the Appellants request that they be allowed to engage in motocross use on the property pending grading/clearing permit approvals, etc. As the recreational use is accessory to a residential use, and there would be no bar to occupancy of a residence pending such permit approvals, etc., it seems there is similarly no justification for a permit-pending bar to it, since there is no structural occupancy at issue and only use of exterior grounds. This conclusion is limited strictly to the general land use regulatory permissibility, however. Motocross riding in areas which are regulated as critical areas and/or their buffers may be restricted and/or prohibited from other regulatory standpoints, as may be disturbance of areas undergoing/having undergone regulated grading activity subject to a permit requirement, erosion-sedimentation/drainage control, and/or required restoration. Accordingly, in the revised compliance schedule established below (also see next conclusion) the Examiner shall establish an allowance of use pending the necessary corrective actions, subject to appropriate conditions and limitations.
10. Since in general the appeal has obviated the compliance schedule established in the Notice and Order, the Examiner shall revise the compliance schedule that pertains to the clearing/grading, erosion-sedimentation/drainage control, and excess clearing violations, so that the compliance deadlines are prospective and clear to the parties. The Examiner shall utilize similar timeframes that were established in the Notice and Order. (The Examiner acknowledges that given the Appellants' lack of disputation of permit and other requirements associated with such earthwork, many of the compliance items may have already have been addressed.)

DECISION:

The appeal is GRANTED and violation finding no. 1 of the Notice and Order and the counterpart requirement in the Stop Work Order are REVERSED. As the other violation findings and requirements in the Notice and Order and Stop Work Order were not contested, they are sustained except that the Notice and Order compliance schedule shall be revised as follows:

1. (Deleted)
2. Implement approved erosion sedimentation and drainage control measures by **June 30, 2008**.
3. Apply for and obtain a valid clearing/grading permit (application packet enclosed) to address violation findings 3 and 4 (clearing and/or grading within a critical area; and exceeding clearing standards). The application must include, at a minimum, a critical areas restoration plan as specified in KCC 16.82.130 and must be completed in accordance with the guidelines outlined in

¹⁰ Which this time unfortunately mixes and muddles the terms "racetrack" and "racing track."

the King County Development Assistance Bulletin No. 28, (see packet enclosed with Notice and Order). The completed application must be submitted to the King County Land Use Services Division for review and approval by **August 29, 2008**.

4. (Incorporated in No. 3 above)
5. (Added) Off-road motorized vehicle use, on a residential accessory and/or defined “trails” use basis, may be conducted on the property pending the permit and regulatory compliance required above, except that such use shall be excluded from regulated critical areas and required buffers as established by Chapter 21A.24 KCC; from areas specifically subject to erosion/sedimentation/drainage control requirements established by DDES in writing; and from areas specifically required to be restored from impermissible grading/clearing, until and unless DDES releases any such areas to off-road motorcycle use resumption (no later than as of the date appropriate regulatory compliance has been achieved, which at the Appellant’s reasonable choice may be on a subarea basis; in other words, areas may be released from the exclusion on an area portion basis). In order to effect the exclusions, DDES shall delineate such areas in the field no later than **July 2, 2008**, in cooperation with the Appellants and/or a delegated representative(s) who shall contemporaneously mark the boundaries of such areas in the field in conformity with established temporary boundary-marking protocols and standards (visible durable tape, etc.).
6. (Added) No penalties shall be assessed by DDES against Appellants Burtis and Kissinger and/or the property if the above compliance requirements and deadlines are complied with in full. If they are not, DDES may assess penalties against the Appellants and/or the property retroactive to the date of this order as provided by county code.

ORDERED June 19, 2008.

REVISED June 20, 2008.

REVISED June 23, 2008.

Peter T. Donahue
King County Hearing Examiner

NOTICE OF RIGHT TO APPEAL

Pursuant to Chapter 20.24, King County Code, the King County Council has directed that the Examiner make the final decision on behalf of the County regarding Code Enforcement appeals. The Examiner's decision shall be final and conclusive unless proceedings for review of the decision are properly commenced in Superior Court within twenty-one (21) days of issuance of the Examiner's decision (in this case, the revised decision mailed June 23, 2008). (The Land Use Petition Act defines the date on which a land use decision is issued by the Hearing Examiner as three days after a written decision is mailed.)

MINUTES OF THE APRIL 15, 2008, PUBLIC HEARING ON DEPARTMENT OF DEVELOPMENT AND ENVIRONMENTAL SERVICES FILE NO. E07G0137.

Peter T. Donahue was the Hearing Examiner in this matter. Participating in the hearing were Ronda Litzau representing the Department; Charles E. Maduell representing the Appellant, Darrell Christensen Robert Neale, Mark Kenworthy, and Jeff Kissinger.

The following Exhibits were offered and entered into the record:

- Exhibit No. 1 DDES staff report to the Hearing Examiner for E05G0137
- Exhibit No. 2 Stop Work Order for E07G0137 issued January 8, 2008
- Exhibit No. 3 Correction Notice for E07G0137 issued after January 4, 2008 Site visit
- Exhibit No. 4 Appeal of Stop Work Order submitted January 17, 2008
- Exhibit No. 5 Copy of the Notice & Order issued January 29, 2008
- Exhibit No. 6 Copy of the Notice and Statement of Appeal received February 12, 2008
- Exhibit No. 7 Copies of codes cited in the Notice & Order
- Exhibit No. 8 Aerial photographs of subject property taken 2005 and 2007
- Exhibit No. 9 Not admitted
- Exhibit No. 10 Not admitted
- Exhibit No. 11 Photographs of subject property
- Exhibit No. 12 Digital Video Recording of activity on subject property on February 8, 2008 taken by Darrell Christensen
- Exhibit No. 13 Photographs of subject property taken by Robert Neale on July 28, 2007
- Exhibit No. 14 Not admitted
- Exhibit No. 15 Photographs of subject property taken by Mark Kenworthy on March 28, 2008
- Exhibit No. 16 Affidavits from community members in support of the Notice and Order
- Exhibit No. 17 Code Interpretation for case file no. L04I004 issued February 11, 2005
- Exhibit No. 18 March 28, 2001 Regulatory Review Committee Meeting Minutes
- Exhibit No. 19 January 24, 2008 Regulatory Review Committee Meeting Minutes
- Exhibit No. 20 Appellant's Response to DDES' exhibits
- Exhibit No. 21 Drawing of subject property illustrating topography
- Exhibit No. 22 Appellant's Appeal Brief

PTD:gao
E07G0137 RPT3